

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

August 9, 2019

The Honorable Bernard L. McNamee
Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Commissioner McNamee:

Thank you for appearing before the Subcommittee on Energy on Wednesday, June 12, 2019, at the hearing entitled, "Oversight of FERC: Ensuring Its Actions Benefit Consumers and the Environment." We appreciate the time and effort you gave as a witness before the Subcommittee.

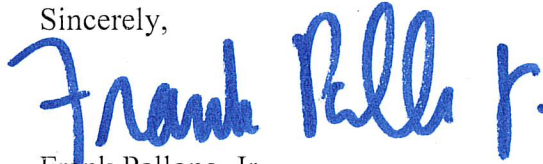
Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from certain members of the Committee. In preparing your answers to these questions, please address your responses to the member who has submitted the questions using the Word document provided with this letter.

To facilitate the publication of the hearing record, please submit your responses to these questions by no later than the close of business on Friday, August 23, 2019. As previously noted, this transmittal letter and your responses will be included in the hearing record. Your written responses should be transmitted by email in the Word document provided with this letter to Omar Guzman-Toro, Policy Analyst with the Committee, at Omar@mail.house.gov. You do not need to send a paper copy of your responses to the Committee. Using the Word document provided for submitting your responses will also help maintain the proper format for incorporating your answers into the hearing record.

The Honorable Bernard L. McNamee
Commissioner, Federal Energy Regulatory Commission
Page 2

Thank you for your prompt attention to this request. If you need additional information or have other questions, please have your staff contact Mr. Guzman-Toro at (202) 226-9398.

Sincerely,



Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce

The Honorable Bobby L. Rush
Chairman
Subcommittee on Energy

The Honorable Fred Upton
Ranking Member
Subcommittee on Energy

Subcommittee on Energy
Hearing on
“Oversight of FERC: Ensuring Its Actions Benefit Consumers and the Environment”
June 12, 2019

The Honorable Bernard L. McNamee
Commissioner
Federal Energy Regulatory Commission

The Honorable Paul D. Tonko (D-NY)

1. While distributed energy resources and storage are playing a growing role in our electricity system, transmission remains the backbone of our electricity infrastructure. As more utility-scale renewables are developed far from centers of demand, this infrastructure will become even more necessary. However, we know these projects are incredibly difficult to plan, site, permit, and build.
 - a. What in your opinion can FERC do to provide greater incentives to increase the utilization of existing transmission infrastructure through the deployment of advanced technologies and/or adoption of practices to maximize capacity and efficiency?
 - b. What are your recommendations for Congress to promote deployment of advanced transmission technologies on existing infrastructure?
2. We also know that the interregional planning process for new transmission infrastructure has not proven to be effective.
 - a. What in your opinion can FERC do to improve the interregional transmission planning process?
 - b. What are your recommendations for Congress to promote a more effective interregional planning process?
 - c. What safeguards should be considered to ensure there is transparency, efficiency, and fairness in that process?
3. There are many regions of the nation with high-potential for clean energy deployment and growing interconnection queues. It is my understanding that Texas has successfully

aligned incentives to encourage transmission construction to connect those areas with demand centers.

- a. In your opinion, what can FERC do outside of ERCOT to ensure right-sized transmission capacity is developed to meet high-potential clean energy regions?
- b. What are your recommendations for Congress to promote efficient development of resources in these regions?

The Honorable Marc Veasey (D-TX)

1. Standard license Article 5 of the conditions that the Commission includes in licenses for major hydroelectric projects affecting navigable waters of the United States requires licensees to acquire and retain sufficient land or rights to use lands needed to construct, maintain, and operate their projects. In the past, the Commission has taken the position that if project operations require the acquisition of additional lands or use rights, the project's boundaries may be amended to include lands previously outside of the project boundaries. E.g., PacifiCorp, 105 FERC P61, 237 at ¶114 (2003).
 - a. Do you believe that the Commission's hydroelectric licensing jurisdiction should be limited to a project's original boundary or should the Commission retain its current authority to require a licensee to acquire sufficient land or rights to use lands to operate the project, even if those lands lie outside a project's historic boundary?
 - b. Do you believe this rule should be different for the Pensacola Hydroelectric Project, FERC No. 1494, than for other hydroelectric projects licensed by the Commission? If so, why?
2. According to the Compliance Handbook published by the Commission's Division of Hydropower Administration and Compliance, many licenses "contain conditions that require specific reservoir water levels to be continuously maintained or maintained during specified periods of time ... or target elevations within required reservoir operating bands. The purpose of these water-level requirements is to protect and enhance the recreational, scenic, and environmental resource values of a project. Non-compliance with the water-level requirements of a project reservoir could adversely affect the project's environmental integrity and quality."
 - a. Do you believe that the Commission needs the authority to prescribe reservoir water levels in its hydroelectric licenses in order to fulfill its statutory responsibilities under the Federal Power Act?

The Honorable Bill Johnson (R-OH)

1. Ensuring electricity markets do not unduly prohibit the entrance of new energy technologies is an extremely difficult task. The FERC must balance a wide and complex array of stakeholder interest and concerns when looking into these issues, and ultimately ensure that the rules are fair and that the rule of law is followed. Commissioner McNamee expressed concern in this regard to Order No. 841, particularly relating to the separation of federal and state responsibilities. Commissioner McNamee, can you please elaborate on this concern?
 - a. Can you please comment on FERC's justification for how it approached Order No. 841?

The Honorable David B. McKinley (R-WV)

1. We are concerned about an expansion of FERC jurisdiction into distribution and retail areas that state and local authorities currently regulate. In 2018, FERC finalized an order (Order NO. 841) to allow electric storage located on distribution facilities and at the retail level, which is regulated at state and local levels, to participate in RTO and ISO wholesale markets. However, this order does not allow state and local authorities to determine whether it is appropriate for such participation to occur, in contrast to the 2008 FERC orders (Order Nos. 719 and 719-A) involving the aggregation of demand response resources located at the retail level for participation in RTO and ISO wholesale markets. Since demand response resources exist at the retail level, FERC recognized that state and local authorities have the authority to regulate this activity.
 - a. By rejecting the cooperative federalism approach FERC established in its demand response order, doesn't the electric storage order expand FERC's jurisdiction at the expense of state and local authorities?
 - b. Can you explain the rationale embedded in the electric storage order for rejecting the cooperative federalism approach FERC established in its demand response order?

The Honorable Billy Long (R-MO)

1. The last time the FERC Commissioners testified before this subcommittee, I asked Chairman McIntyre why City Utilities, a public utility owned by the City of Springfield, Missouri, is paying the highest energy cost in the Southwest Power Pool. I also asked why City Utilities is paying for transmission upgrades where the costs greatly exceed the benefits received, as shown by Southwest Power Pool's own study. The study shows that City Utility's benefit ratio is around .5, lower than the threshold of .8 needed to meet the Federal Power Act's Just and Reasonable Standard. At the same time, Chairman

McIntyre expressed surprise that one entity would be paying substantially more for transmission service than others and promised to look into it.

- a. Are you or any of the other commissioners aware whether a wide discrepancy in benefits to customers remains within SPP?
2. On May 10th of last year at a hearing entitled "Examining the State of ELECTRIC Transmission Infrastructure: Investment, Planning, Construction, and Alternatives," John Twitty testified on behalf of the TAPS Group about the benefits of joint transmission ownership arrangements as an effective means of getting needed transmission facilities built. For more than a decade, FERC has reportedly expressed strong support for such arrangements, however your support has not spurred additional joint ownership arrangements. The Commission has recently initiated a notice of inquiry regarding its transmission incentives policies.
 - a. Should the Commission do more to actively promote joint ownership arrangements involving public power entities?